

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

11	GPNE CORP.,)	Case No.: 12-CV-02885-LHK
12	v.)	ORDER GRANTING IN PART AND
13	Plaintiff,)	DENYING IN PART GPNE'S MOTION
14	APPLE, INC.,)	FOR JUDGMENT AS A MATTER OF
15	Defendant.)	LAW

16 At the close of Apple's affirmative and defensive cases, GPNE moved for judgment as a
17 matter of law pursuant to Federal Rule of Civil Procedure 50(a) on many issues, including
18 anticipation, enablement, written description, and statutory bars. ECF No. 528. Pursuant to the
19 parties' stipulation, the parties did not file oppositions. ECF No. 514.

20 On October 20, 2014, Apple's counsel agreed with the Court that a jury instruction on
21 statutory bars should not be given to the jury. *See* Tr. at 1607:16-20. Similarly, Apple's counsel
22 conceded that Apple's only invalidity witness did not testify as to anticipation. *See id.* at 1608:12-
23 1609:13. Furthermore, while Apple's proposed final jury instructions filed on July 15, 2014 (ECF
24 No. 335) included an instruction on enablement, Apple's October 13, 2014 proposed final jury
25 instructions (ECF No. 461) did not.

26 As a result, the Court gave Apple an opportunity to file an opposition to GPNE's motion for
27 judgment as a matter of law as to anticipation, enablement, written description, and statutory bars
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1 by 8:00 A.M. on October 21, 2014, if Apple so chose. ECF No. 533. The Court denied the
2 remainder of GPNE's motion for judgment as a matter of law. *Id.*

3 On October 21, 2014, Apple filed an opposition, which addressed only the issue of written
4 description. ECF No. 535. Apple's opposition did not address anticipation, enablement, or
5 statutory bars. In light of Apple's decision not to oppose GPNE's motion on these issues, Apple
6 counsel's statements on October 20, 2014 about the scope of Apple's invalidity arguments in
7 connection with final jury instructions, and the record in this case, the Court GRANTS GPNE's
8 motion for judgment as a matter of law as to anticipation, enablement, and statutory bars.

9 As to written description, after considering all of the evidence presented at trial and the
10 parties' briefing, the Court hereby DENIES GPNE's motion for judgment as a matter of law as to
11 written description.

12 **IT IS SO ORDERED.**

13 Dated: October 21, 2014



LUCY H. KOH
United States District Judge